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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,206

09/22/2006

Fernando Alberto Grazziotin

GRAZ0101PUSA

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22045 7590 10/26/2010

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EXAMINER

HELVEY, PETER N.

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

10/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,206

Applicant(s)GRAZZIOTIN, FERNANDO
ALBERTO**Examiner**

PETER HELVEY

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-14 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 12-14, 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12-14 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grazziotin (US 7,080,751) in view of Nestler (US 3,512,338).

In re Claim 12, Grazziotin teaches a bag (7) designed to be used in places that accumulate grit and dirt (Column 2, Lines 14-27) the bag comprising a seam (8) extending transversely across a lower end of the bag, the seam forming at least one projection extending outwardly from the lower end of the bag (Figure 4); at least one bushing (24) having a tubular shape for projecting through the sidewall and for coupling the bag to a container, the bushing having: an internal fitting (Grazziotin, Fig. 2; 24 from left side line of 45 towards outside of container) for outwardly projecting through the external bag, capable of being received by an inlet of a container for forming a seal and extending through the inlet for connecting to an external tube, and an external fitting (Fig. 2; 24 from left side line of 45 towards inside of container) opposite the internal fitting and projecting inwardly through the at least two internal bags and capable of being connect to an internal tube and wherein the bushing is capable of allowing the innermost bag to be removed without disrupting the seal.

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Grazziotin does not teach a bag assembly comprising orthogonally nested bags. Nestler teaches a set of nested bags, in which the mandrel is rotated slightly to offset the seams of adjacent bags. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to create a set of nested bags, as taught by Nestler with the bags of Grazziotin. Further, since Nestler discloses that it is known to rotate a mandrel, so that the seams of adjacent bags are offset, it would be within the level of ordinary skill in the art to offset the seams of the bags of Grazziotin 90 degrees when creating the nested bag assembly. Such a modification would have involved the use of a known technique of creating a nested bag assembly, and finding the optimal angle at which to offset the seams of adjacent bags.

The combination teaches a multilayered sidewall is formed by the nesting of the bags.

In re Claim 13, the additional limitations provide no additional structural limitations to the bag assembly. Further, the bag assembly of the combination is capable of being positioned within a container such that the sidewall extends out of and folds over a circumferential edge of the container for supporting the bag assembly.

In re Claim 14, the combination further teaches at least one bushing (Grazziotin, 24) adapted for facilitating fluid communication through the bushing (Grazziotin, Figures 1-3).

In re Claims 17, and 20, the combination further teaches the bushing is received by an inlet of the container for forming a seal, the bushing is configured for allowing an innermost internal bag and any collected grit and dirt therein to be selectively removed

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from the bag assembly without removing the bushing or disrupting the seal (Fig. 2; layered bag structure taught by the combination clearly allows innermost bag to be removed from the bushing without disrupting the seal as the next inner bag's seal will be maintained by compressive force 93).

In re Claim 18, the combination further teaches the at least one bushing further comprises an external region (Fig. 2; 24 from left side line of 45 towards inside of container) for fitting in the respective lateral opening of the internal bags and promoting sealing between the internal bags to limit the flow of liquid from an innermost bag to any of the subsequent internal bags, the external region having a lip (2) extending radially for retaining the internal bags to the bushing.

In re Claim 19, the combination further teaches the at least one bushing further comprises an internal region (Fig. 2; 24 from left side line of 45 towards outside of container) for projecting outwardly through the external bag and displacing a portion of the external bag about an outer diameter of the internal region. Where applicant has failed to positively claim the container and the inlet pipe of the container, the limitation "wherein the portion of the external bag is compressed between the bushing and an inlet pipe of the container" is interpreted as a functional intended use. This interpretation of the claim language combined with *Grazziotin's* teaching of the claimed alternative (Figs. 14, 15) leads the examiner to the position that *Grazziotin* teaches a device capable of the claimed functional intended use.

Allowable Subject Matter

3. Claim 21 is allowed.

Response to Amendment

4. Applicant's amendment to the specification, filed September 23, 2010, removes the new matter previously objected to. The objection to the amendment filed October 20, 2009 has been withdrawn.

Response to Arguments

5. Applicant's arguments filed September 23, 2010 have been fully considered but they are not persuasive.

Applicant's argument that *Grazziotin* does not teach an internal fitting opposite an external fitting as claimed does not persuade the examiner because, as maintained in the rejections above, the tube (24) taught by *Grazziotin* is considered to have an internal and external fitting. Given the breadth of the terms, the examiner considers the outer portion of the tube (from the left side line delineating numeral 45 towards the outside of the container) to meet the scope of the claimed "internal fitting" and the inner portion of the tube (from the left side line delineating numeral 45 towards the inside of the container) to meet the scope of the claimed "external fitting." The two halves of the tube are clearly opposite each other.

Applicant's argument that *Grazziotin* does not teach combining the multiple embodiments to achieve the claimed invention as discussed by applicant does not

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persuade the examiner because *Nestler* is relied upon for providing the motivation to provide multiple layers of the *Grazziotin* embodiment relied upon in the rejections above. The examiner simply refers to the *Grazziotin* embodiment shown in Figures 1 and 2 with reference to figure 4 to demonstrate the structure of the seam, which cannot be seen in Figures 1-2. The examiner has not proposed the combination of multiple *Grazziotin* embodiments and therefore is not persuaded by the arguments.

Applicant's argument that the *Grazziotin* pipe (24) is not received by an inlet of the container because it is integrally formed with the container does not persuade the examiner because 1) applicant has not positively claimed the container or inlet of the container and 2) *Grazziotin* is silent as to the construction of the pipe and container, simply shows them unified in cross section. Because applicant has not positively claimed the container or inlet of the container, the limitation is treated as a functional intended use limitation. The *Grazziotin* container/pipe could be made from a pipe inserted into an aperture of the container, then welded to be integral, which would clearly meet the scope of the claim. Regardless, in its current form the *Grazziotin* pipe can clearly be received by an inlet of a container and the examiner considers this to meet the scope of the claim, absent positive claiming of the container and inlet.

For the reasons stated above, as well as those maintained in the rejections above, the examiner is not persuaded by applicant's arguments and the rejections are maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER HELVEY whose telephone number is (571)270-1423. The examiner can normally be reached on M-Th 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. H./

Examiner, Art Unit 3782

October 21, 2010

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782